

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 343 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES
2. To be referred to the Reporter or not? : YES
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

DISTRICT PRIMARY EDUCATION

Versus

PRAVINCHANDRA HARJIVAN PANDYA

Appearance:

MR PREMAL R JOSHI for Petitioner
MR JR NANAVATI for Respondent Nos.1 to 7
None present for other respondents

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 15/12/1999

ORAL JUDGEMENT

#. Heard learned counsel for the parties. In view of the order which I propose to pass in this Civil Revision Application, I do not consider it to be necessary and proper to give out all the facts of the case and the contentions of the learned counsel for the parties. The facts of the case, which are necessary for the disposal

of this Civil Revision Application shortly stated are as follows.

#. The respondent-plaintiff Nos. 1 to 7 filed Regular Civil Suit No.78/95 in the court of Civil Judge (SD), Gondal. Along with the suit the respondents-plaintiffs filed application at Exh.5 for grant of interim injunction in their favour. The respondent-plaintiff Nos. 1 to 7 are the teachers and Principal of the Primary School at Gondal Taluka. The suit pertains to the dispute at what rate the House Rent Allowance has to be given to these teachers and the Principal of a Primary School of the Taluka concerned. It appears from the facts of the case that the State of Gujarat has classified cities for the purpose of prescribing rate at which its employees are to get House Rent Allowance. There appears to be a provision in the scheme that those employees who are serving in the villages, which is within the limits of 8 Kms. of a particular classified city and due to the scarcity of suitable residential building if they reside in the classified city are eligible for House Rent Allowance, at the rate at which is given to the employees of that classified city.

#. In this case, the plaintiffs-respondents are getting the House Rent Allowance at the rate, which is admissible to the employees of that classified city where they are residing though they are working in the villages. The Taluka Officer under his order dated 15/12/95 ordered to stop the Bhatta to be given to the plaintiff-respondents at the rate it is payable to the employees of that classified cities where they are residing and ordered that they are entitled under this head Rs.50/- p.m. The learned Trial Court granted the application filed by the plaintiffs-respondents and they have been protected by grant of interim injunction. This order of the trial court is challenged by the petitioners and the respondent Nos 8 and 9 in District Court. Under the impugned order of the Appellate Court both the appeals were came to be rejected. The State of Gujarat and District Local Fund Examiner have not preferred any revision application before this court. However, the petitioner, the District Primary Education Officer, Rajkot has chosen to file this revision application.

#. It is really shocking that in this small issue which could have been disposed of by the Trial Court within a period which has been taken by it to dispose of the application at Exh.5 it has chosen to adopt the course to decide the Exh.5. In turn the First Appellate Court has also taken that very course and consumed its valuable

time to decide the appeal. The judgment of the appellate court runs in 22 pages. Looking to the high pendency of the litigations in the State, it is the duty of everybody who is concerned with the system to make all endeavour to see that the precious and valuable time of the courts is not consumed unnecessarily. It is true where it is a simple suit in which the challenge has been made to the order of transfer or some other claim of the House Rent Allowance etc. being a civil suit has to be tried in accordance with the procedure laid under Code of Civil Procedure, 1908. Procedural complicities are there in the civil suits and so long as the Civil Procedure Code appropriately not amended these are to be faced by the courts. But the service matters are to be mainly decided only on the documentary evidence and therein the oral evidence may not be of that much quantum or quantity. Instead of taking all these cumbersome ordeal of the procedural requirement etc. the court could have proceeded straightaway to frame issues and record evidence of the parties. While deciding the Exh.5 the Trial Court has to consider all those very documents to arrive to a conclusion whether the plaintiff has to be protected by grant of interim injunction or not which are to be considered to decide the civil suit. I do not mean to suggest that in appropriate case interim injunction should not be granted but while dealing with Exh.5 courts should be very concise and brief. Briefly the reasons for the grant of interim injunction are to be given. It has to concentrate and consume its time to expeditiously dispose of the suit. It is not unknown to the courts subordinate that this category of the litigation is being decided by this court in the Special Civil Applications and therein the oral evidence is not taken. This category of the suits can be disposed of by following the summary procedure i.e. if necessary taking of the evidence on affidavit of the parties.

#. At the cost of repetition, it is to be stated that the decision of this category of the cases mainly and substantially depends on the documentary evidence and therein only little oral evidence may be required. Instead of waiting for the amendment of the Code of Civil Procedure the courts may start to decide atleast this category of the matters in the way where they are not required to go on this procedural complicities. Where suits of this nature possibly can be disposed of immediately as the decision therein in rests solely on the documentary evidence, those are to be identified and accordingly be disposed of. But what the court subordinate doing is totally contra. They consume their valuable time in hearing arguments on application Exh.5

and writing lengthy judgments disposing of this Exh.5.

#. I have seen cases after cases where the Trial Courts as well as First Appellate Courts are consuming their substantial time to decide Exh.5 application. They are writing long judgments as if they are deciding the suit finally. Today I had a case before me where the learned Trial Court has decided the application at Exh.5 in the suit under an order running in 40 pages. I have my own reservation that the court may not require that much of time and the quantum of the papers to decide the suit itself finally. However, the courts below are not taking the matter appropriately. They felt contented and satisfied as if they have to decide the matter finally at this stage of Exh.5. In cases after cases I find that by way of interim injunction or interim relief the courts subordinate are granting main relief, which is prayed in the suit. If that has been done then what remains to be decided in the suits itself. This is one aspect and secondly if the final relief has to be granted at this stage why the courts are not making all efforts and endeavour to see that the suits are finally disposed of expeditiously. Be that as it may.

#. The interim relief, which has been granted by the courts below is continuing for all these years. The plaintiffs-respondents are the employees of the District Panchayat, Rajkot and even if ultimately they fail in the litigation whatever the amount excess paid to them under the head of House Rent Allowance it can be recovered from them. The suit is of the year 1995 and as what I said earlier the decision thereof is wholly or mainly rests on the documentary evidence. Little bit quantity of oral evidence may be required. The interest of justice will be met in case instead of interfering with the orders of the courts below the trial court is asked to dispose of suit finally at an early date. The plaintiffs-respondents have filed undertaking in the trial court to the extent that in case they fail in the suit they will refund excess amount paid to them under the head of House Rent Allowance within a period of 15 days from the demand thereof by the petitioners.

#. The Civil Revision Application is disposed of in the term that the learned Trial Court to decide the suit finally within a period of 6 months from the date of the receipt of the writ of this order. The petitioner and defendant-respondent Nos. 8 to 10 shall file their written statement if they have not filed so far within a period of 15 days of the date which is fixed by the trial on receipt of the writ of this order. The learned Trial

Court shall frame issues in the suit as far as possible on the same day on which the written statements have been filed or within a period of 7 days next. The plaintiffs-respondents shall complete their evidence within one month. The petitioner and respondent Nos. 8 to 10 shall complete their evidence within next one month. In the rest of the time available the trial court shall hear the arguments and decide the suit. Compliance of the order be reported to this court. The Rule and the Civil Revision Application stand disposed of accordingly. However, liberty is granted to the petitioner for revival of the Civil Revision Application in case of any difficulty.

(S.K.Keshote, J.)

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